

# Holland & Knight

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May 17, 2012

*Via Electronic Filing*

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **Notice of Ex Parte Presentation**  
**Entertainment Software Association**  
**CG Docket No. 10-213**

Dear Ms. Dortch:

This is to notify you that on Tuesday, May 15, 2012, Christian Genetski, Senior Vice-President and General Counsel of the Entertainment Software Association (“ESA”), Michael Warnecke, ESA Senior Policy Counsel, and Bill LeBeau, Holland & Knight LLP (collectively, the “ESA Representatives”), met with Renee Wentzel, Legal Advisor to Chairman Julius Genachowski, and Lyle Elder, Attorney-Advisor to Chairman Genachowski.<sup>1</sup>

The ESA presented an overview of its pending waiver petition, which was filed on March 21, 2012.<sup>2</sup> The Petition requests waivers of the rules governing advanced communications services (“ACS”) for three classes of equipment or services, as expressly defined on page 4 of the Petition, that may allow consumers to access and use some ACS, but are designed primarily to enable the playing of or access to video games. The ESA representatives reviewed the ESA’s prior participation in the related rule making proceeding, and explained how each of the proposed classes has a primary purpose of

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<sup>1</sup> The ESA Representatives also spoke briefly with Charles Mathias, Special Counsel to Chairman Genachowski, although he was not present for the discussions of the matters detailed herein.

<sup>2</sup> See ESA Petition for Waivers of 47 C.F.R. §§ 14.1 *et. seq.*, CG Docket Nos. 10-213 (filed March 21, 2012) (the “Petition”); *Request for Comment, Petition for Class Waiver of Commission’s Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*, Public Notice, CG Docket No. 10-213 (May 15, 2012).

playing, enabling or distributing games.<sup>3</sup> The ESA representatives explained their understanding of key terms of the Commission order released in October 2011 relating to ACS accessibility, including product lifecycle, and how the Order's obligations apply to ACS features or functions.<sup>4</sup>

The ESA representatives also addressed a number of other details of its Petition, including the duration of the proposed waivers and scope of the classes for which it is seeking waivers. The ESA representatives noted how the proposed classes do not incorporate general-purpose products or services but are limited to game industry products and services, as detailed on pages 18-21, 26-27, and 31-34 of the Petition. The ESA representatives emphasized the benefits of waivers with respect to the many offerings clearly within the proposed classes.

Pursuant to Section 1.1206 of the Commission rules, we are electronically filing this letter with your office and are electronically providing a copy of this submission to the meeting attendee. Please let the undersigned know if you have any questions relating to this filing.

Respectfully submitted,

/s/ Bill LeBeau

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Attorneys for the  
Entertainment Software Association

cc: Charles Mathias, Special Counsel to Chairman Julius Genachowski  
Renee Wentzel, Legal Advisor to Chairman Julius Genachowski  
Lyle Elder, Attorney-Advisor to Chairman Julius Genachowski  
(via electronic mail)

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<sup>3</sup> See ESA Comments, CG Docket Nos. 10-213 & 10-145; WT Docket No. 96-168 (filed Apr. 25, 2011); ESA Reply Comments, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-168 (filed May 23, 2011).

<sup>4</sup> *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557 (2011).